

THE AVERAGE WORK WEEK (AWW)

FREQUENTLY ASKED QUESTIONS

What is the AWW?

The AWW is simply the employer's prediction of how many hours you will work over a three month period. Every quarter, the employer reviews the amount of work projected over the next three month period, and assigns an AWW to each interviewer based on how much work the employer believes they will be assigning that individual. The AWW is supposed to match, as closely as possible, the actual number of hours that the interviewer works.

Why do we need an AWW?

You need to be assigned an AWW in order to be part of the pension plan. Only employees who have predictable hours of work can contribute to, and be beneficiaries of, the pension plan. For the majority of pension plan contributors, this isn't a problem because they have regularly scheduled hours of work. SSO interviewers, however, have variable hours of work. The solution is the AWW. The *Superannuation Act* allows employees with variable hours to be part of the plan if the employer can (accurately predict) - over time, that employees will be working regularly.

What Else Does the AWW Control?

In addition to determining how many hours are counted towards your pension, the AWW is used to calculate entitlement to dental benefits, employee status, death benefits and severance. All of this is triggered because of the definition of "employee" in the *Public Service Labour Relations Act*. Under this law, an employee is defined as: "a person not ordinarily required to work more than one third of the normal period for persons doing similar work".

If a work week is normally 37.5 hours, then one third of this "normal period" is 12.5 hours. If your AWW is less than 12.5 hours, therefore, you are no longer an "employee" within the legal definition of the term. This means that you are no longer covered by the collective agreement. It is the collective agreement which gives you dental benefits, death benefits, union membership, and severance pay. If you are no longer covered by the collective agreement, you lose these collective agreement based benefits.

I Work More than 12.5 Hours a Week, But My AWW is Lower Than This. How Is That Fair?

It isn't. If you are actually working more than 12.5 hours a week, it is the Union's view that you should be receiving all the benefits of an "employee". You are being ripped off if your AWW is robbing you of employee status and you are actually working above the cut-off mark.

Why Wasn't the Problem Fixed At the Last Round of Bargaining?

Most of the problems associated with the AWW can't be fixed at the bargaining table. We can't bargain to change the law that defines "employee". The Union's position is that our members who work an average of more than 12.5 are, in fact, meeting the definition of employee. During the last round, we tried very hard- to make the employer guarantee everyone a minimum AWW of thirteen hours, but they wouldn't do it. The employer told us that because they can't guarantee that the work will come in from their clients, they can't guarantee a minimum amount of work for their employees. This is despite the fact that the AWW itself is only a predictor, not a guarantee. Basically, because the demand for survey work is uncertain, nobody can predict how much work there will be in the future. The employer knows what's coming up over the next year or so, but beyond that they can't make any promises.

What Did Change Through Negotiations?

Your Union wants the employer to get it right when they're assigning the AWW. There is new language in the collective agreement that gives all members the right to make a complaint if they are working more hours than their AWW. You can now ask the employer to review your AWW and make adjustments so that all of your hours are counted and you don't lose your benefits. This doesn't change what happened before you made your complaint, but at least if the employer makes the necessary adjustment in a timely fashion, you won't continue to lose indefinitely.

Why Can't the Employer Retroactively Change My AWW to Match My Actual Hours Worked?

The Employer has absolutely no control over the pension plan. All they do is send in your AWW to the pension plan so that you are credited with those hours. The pension plan will only make changes to those hours if there was an administrative error. For instance, if the employer accidentally submitted 2 hours instead of 20, they would correct the mistake. They cannot, however, go back every three months and adjust everyone's hours. This is because the AWW is supposed to be a prospective tool, designed to make a projection into the future -

not a retrospective tool which calculates hours after they've actually been worked.

The only bright spot in all of this is that it works both ways - the employer can't retroactively lower your AWW if you don't actually work the hours. If you have an AWW of 15 hours, for example, but only work 10, you still get all of the employee benefits and all of those hours count towards your pension, even if you didn't actually work them.

Why Can't We Complain to the Pension Plan That the Employer Keeps Getting it Wrong?

We need to be careful. Remember that the only way you get to be in the pension plan is if the employer can accurately predict how many hours you work. If it was found that the employer actually has no way of making accurate predictions, you risk losing your ability to be part of the plan altogether. Is this a risk we're willing to take in taking this issue on?

If We Can't Change the Law and We Can't Bargain Away the Problem, What Can We Do?

There are three things that we can do to try and make things fairer.

1. If your AWW is below your actual hours worked for more than a month, complain to the employer. You have the right to make a complaint under the collective agreement, and if the employer won't fix the problem, you can file a grievance. This won't retroactively adjust the hours that you have already lost, but at least the problem should get fixed before you lose any more. The employer is supposed to review the AWW on a quarterly basis, but if you put in a complaint, it means you don't have to wait until the next quarter for them to do something about it. However, the Union needs to be able to respond to the argument that "employee" status cannot be an ever-shifting sand. We really need grievors who can establish that they have worked hours beyond 12.5, over 6 months (2 quarters) or longer, and have been denied benefits because of the application of the AWW.
2. The Union is looking at the possibility of supplementing individual grievances with a policy grievance on behalf of all SSO employees who we feel should have the benefits of Union membership and the collective agreement.
3. As you approach retirement, it is possible to ask the Superannuation Board to review your file. We know that this has been done in the past where an employee's pension has been significantly affected by a consistent shortfall in the number of pensionable hours they have been able to claim. We are looking into

more specific details about how to make such a request and, again, we will provide you with more information once we have completed our review of the issue.

There is no quick fix to this problem, but please be assured that the PSAC, through the National Component, is doing everything it can to bring you some relief. Your Union is aware of the problem, looking at a variety of different solutions, and working hard to make things better. We will send you more information on what we are doing just as soon as we have any progress to report. Thank you for your continued support.